

Message Text

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ORIGIN L-02

INFO OCT-01 ARA-06 ISO-00 OFA-01 OES-03 AID-05 EB-07

SCA-01 H-02 INR-07 DLOS-03 PRS-01 CG-00 DOTE-00 SS-15

TRSE-00 SCS-03 DODE-00 SSO-00 NSCE-00 INRE-00 NSC-05

PM-03 IO-10 /075 R

DRAFTED BY L/ARA:DAGANTZ:

APPROVED BY ARA/CEN:DLAZAR

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L/C:FKWIATEK

L/OES:MBWEST

----- 104652

O R 122117Z MAY 75

FM SECSTATE WASHDC

TO AMEMBASSY MANAGUA IMMEDIATE

INFO AMEMBASSY TEGUCIGALPA

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E.O. 11652: N/A

TAGS: CPRS, NU

SUBJECT: SEIZURE OF US FISHING VESSEL "SUGAR DADDY"

REF: A. TEGUCIGALPA 1778 B. MANAGUA 1767

C. MANAGUA 1654 D. MANAGUA 1696

E. MANAGUA 1785

1. IN VIEW REF A AND NOTWITHSTANDING REF B DEPT DOES NOT
BELIEVE WE CAN PROPERLY TAKE THE POSITION THAT "SUGAR
DADDY" IS NOT REPEAT NOT US VESSEL UNDER INTERNATIONAL LAW.
IN OUR VIEW VESSEL'S POSSESSION OF HONDURAN PERMIT DOES
NOT AFFECT REGISTRY QUESTION PER SE. NEVERTHELESS, GON
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AUTHORITIES APPARENTLY HAD CONSIDERABLE BASIS FOR BELIEVING

VESSEL WAS OF HONDURAN REGISTRY SINCE IT WAS NOT FLYING US FLAG, REPORTEDLY DID NOT SHOW US REGISTRY PAPERS, AND DISPLAYED HONDURAN PERMIT INDICATING THAT VESSEL WAS REGISTERED IN HONDURAS.

2. UNDER THESE CIRCUMSTANCES WE BELIEVE GENERAL COURSE OF ACTION SUGGESTED BY EMBASSY PARA 2 REF C ADVISABLE. SPECIFICALLY, YOU SHOULD ADVISE NICARAGUAN GOVERNMENT IN

INFORMAL, LOW-KEY MANNER THAT VESSEL IS IN FACT REGISTERED IN US, THAT BECAUSE OF THIS FACT VARIOUS US LEGISLATION AFFECTING SEIZURES OF VESSEL COULD BE APPLICABLE. YOU SHOULD ALSO TELL GON AUTHORITIES THAT GIVEN THE CIRCUMSTANCES OF THE CASE, ESPECIALLY THE CONFUSION OVER REGISTRY, IF VESSEL IS RELEASED WITHOUT PENALTIES, USG BELIEVES COMPLEX PROBLEMS OF POSSIBLE APPLICABILITY OF US LAW AND DISAGREEMENT OVER LARGER LAW OF THE SEA ISSUES CAN BE AVOIDED.

3. IN LIGHT OF POSSIBLE SEIZURES OF OTHER US VESSELS (REF D), DEPT BELIEVES IT MAY ALSO BE ADVISABLE TO INFORM GON MORE EXPLICITLY OF US STATUTES WHICH COULD COME INTO PLAY UPON ANY FUTURE SEIZURE OF US VESSEL FOR ALLEGED VIOLATION OF GON 200-MILE EXCLUSIVE FISHING ZONE. OF MOST IMMEDIATE CONSEQUENCE IS SECTION 3(B) OF FOREIGN MILITARY SALES ACT, AS AMENDED, WHICH PROVIDES THAT NO SALES, CREDITS OR GUARANTEES UNDER THE ACT MAY BE MADE OR EXTENDED TO QUOTE ANY COUNTRY DURING A PERIOD OF ONE YEAR AFTER SUCH COUNTRY, SEIZES, OR TAKES INTO CUSTODY, OR FINES AN AMERICAN FISHING VESSEL FOR ENGAGING IN FISHING MORE THAN 12 MILES FROM THE COAST OF THAT COUNTRY UNQUOTE. THIS CUTOFF IS IMMEDIATE. THE PRESIDENT MAY LATER WAIVE THE PROVISION IF HE DETERMINES IT TO BE IMPORTANT TO THE SECURITY OF THE UNITED STATES OR HE RECEIVES REASONABLE ASSURANCES THAT FUTURE VIOLATIONS WILL NOT OCCUR. HOWEVER, SUCH A WAIVER DEPENDS ON APPLICABLE FACTS AND IS NOT A CERTAINTY IN ANY PARTICULAR CASE.

4. IN ADDITION, FISHERMEN'S PROTECTIVE ACT PROVIDES FOR LIMITED OFFICIAL USE

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REIMBURSEMENT TO OWNERS OF US VESSELS SEIZED BY A FOREIGN COUNTRY ON THE BASIS OF RIGHTS OR CLAIMS IN TERRITORIAL WATERS OR THE HIGH SEAS WHICH ARE NOT RECOGNIZED BY THE UNITED STATES. IF PAYMENT IS MADE TO OWNER, ACT PROVIDES THAT FOREIGN NATION SHALL BE NOTIFIED OF THE PAYMENT AND THAT USG SHALL TAKE APPROPRIATE ACTION TO MAKE AND COLLECT CLAIMS AGAINST THE FOREIGN GOVERNMENT FOR THE PAYMENTS SO MADE. IF A FOREIGN COUNTRY FAILS OR REFUSES

TO MAKE PAYMENT IN FULL, SECRETARY OF STATE IS DIRECTED
TO DEDUCT AMOUNT OF REIMBURSEMENTS FROM FUNDS PROGRAMMED
UNDER THE FOREIGN ASSISTANCE ACT FOR THE SEIZING
COUNTRY, UNLESS PRESIDENT CERTIFIES TO CONGRESS THAT IT
IS NOT IN THE NATIONAL INTEREST TO MAKE THE DEDUCTION.

5. OTHER PROVISIONS OF US LAW, SUCH AS SECTIONS 620(E)
AND 620(O) OF THE FOREIGN ASSISTANCE ACT COULD ALSO BE
APPLICABLE. IN ADDITION, USG HOPES US AND GON CAN AVOID
CONFLICT OVER FISHERIES JURISDICTION ISSUES IN LIGHT OF
THE NEGOTIATIONS IN THE LOS CONFERENCE WHICH ARE
CURRENTLY UNDERWAY IN GENEVA UNTIL MAY 10. AT EMB.
DISCRETION, EMB MAY WISH TO RAISE THE ABOVE WITH
APPROPRIATE GON OFFICIALS OF ABOVE FOR THEIR CONSIDERATION
IN FUTURE DECISIONS REGARDING US VESSELS. IN SO DOING
EMB. SHOULD AVOID ANY STATEMENTS THAT THESE LAWS DEFIN-
ITELY APPLY TO CASE OF "SUGAR DADDY" AS THIS MATTER IS
CURRENTLY UNDER CONSIDERATION DUE TO SPECIAL FACTS OF
CASE. INGERSOLL

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